

USSN 10/828,915  
Response to Office Action of August 26, 2005  
Attorney Docket SAIC 21.081 100788-00076

### **III. REMARKS**

Claims 1-15 are in the case. Claims 1-12 stand rejected. Claim 13 stands objected to. Claims 1, 2, 4, 6 and 8-13 have been amended, claims 14 and 15 have been added.

#### ***Claim Rejections - 35 USC § 112***

Regarding claim 1, the phrase "i.e." renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. The offending phrase has been deleted from the claim thus obviating this ground for rejection.

Regarding claims 1 and 8, the phrase "further to at least most of the solvent" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. The offending phrase has been deleted from the claim thus obviating this ground for rejection.

Regarding claim 4, the phrase "such as in particular" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. The offending phrase has been deleted from the claim thus obviating this ground for rejection.

#### ***Claim Rejections - 35 USC § 102***

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith. Smith has taught a process and method for removing compounds (volatile acids) from a solution (wine). The method comprises the steps of a first stage separation of a feed stream (50) into a retentate (120) and a raw permeate (130). The separation occurs within a separation means having a membrane. Contained within the permeate are the compounds responsible for the

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volatile acidity of the wine. The method further comprises a second separation of the raw permeate stream, the separation producing a pure permeate (180) and a discharge stream (250). Located within the discharge stream are the compounds responsible for the volatile acidity. The disclosure of Smith is anticipatory of the limitations of the instant claims 1 and 8.

Applicant respectfully disagrees. The examiner fails to consider the fundamental difference between the two processes. As stated by the examiner, Smith, US 5,480,665 discloses a method and apparatus for, *inter alia*, the removal of volatile acidity from wine. As is stated in applicant's specification, at page 2, line 4-7, in the course of reducing the acidity, Smith's process also removes substances which are desired in the wine, such as tartaric acid.

Smith describes a process that utilizes reverse osmosis in conjunction with a treatment column which may be a distillation column or an anion exchange column.

Smith removes the volatile acidity from wine by subjecting the wine to a reverse osmosis process to split the wine into two fractions; one with depleted volatile acidity producing components and one with increased volatile acidity producing components [the permeate]. The permeate, with increased volatile acidity, is passed through an anion exchange column where ethyl acetate, one of the volatile acidity components is destroyed and/or retained on the column and the volatile acidity depleted permeate is recombined with the retained fraction from the reverse osmosis step.

In summary Smith

- 1] subjects the wine to reverse osmosis
- 2] subjects the volatile acidity enriched fraction from step 1 to anion exchange, and
- 3] combines the streams from step 1 and 2.

Applicant recognized the existence of Smith in the background section of his application where it is highlighted that the use of anion exchange resins is prohibited in certain countries and that one of the purposes of the present invention is to provide an alternative process. [page 2, lines 2-7 ]

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Applicants process does not utilize an anion exchange resin.

Applicant's process comprises a two stage reverse osmosis process utilizing progressively more selective membranes and couples this to a feedback circuit to avoid the problems associated with the use of an anion exchange resin. Importantly this process also avoids the use of additives, although additives may optionally be used in one embodiment of the invention.

In summary, applicant

- 1] subjects the wine to reverse osmosis
- 2] subjects the volatile acidity enriched fraction from step 1 to more selective reverse osmosis
- 3] combines the volatile acidity enriched fraction from step 2 with the volatile acidity enriched fraction from step 1
- 4] consecutively subjects the volatile acidity enriched fraction from step 3 to more selective reverse osmosis
- 5] combines the volatile acidity depleted fraction from step 1 with the volatile acidity depleted fraction from step 2.

Thus, this reference is distinguishable by its different process parameters and by the different results obtained.

The present process does not utilize an anion exchange resin; it comprises a two stage reverse osmosis process utilizing progressively more selective membranes and couples this to a feedback circuit to avoid the problems associated with the use of an anion exchange resin. Importantly this process also avoids the use of additives, although additives may optionally be used in one embodiment of the invention.

### ***Claim Rejections - 35 USC § 103***

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Perry. The disclosure of Smith and its lack of disclosure of the pertinent aspects of

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applicant's invention has been discussed above. The addition of Perry does not provide the missing elements of applicant's invention not disclosed by Smith.

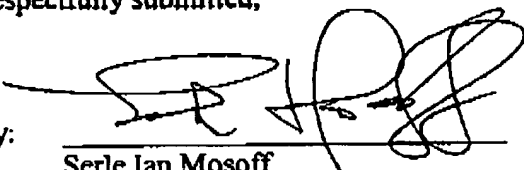
***Allowable Subject Matter***

Claim 13 stands objected to as being dependent upon a rejected base claim, but would be free of the prior art if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 13 has been rewritten as an independent claim thus obviating this ground for rejection.

Applicant submits that the claims are now in condition for allowance and early notification thereof is solicited. Any fee due with this paper, not fully covered by an enclosed check, may be charged on Deposit Account 50-1290.

Respectfully submitted,

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